

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL JAY DEMARTINI, et al.,

Plaintiffs,

v.

THOMAS CHRISTOPHER JOHNS, et al.,

Defendants.

Case No. 12-cv-03929-JCS

**ORDER GRANTING MOTION TO
ALTER OR AMEND JUDGMENT**

Re: Dkt. No. 88

On November 13, 2015, the Court granted the DeMartinis' Petition to Confirm Award of Arbitrator and Enter Judgment and ordered that "[j]udgment shall be entered in favor of the DeMartinis on the July 30, 2014 Malpractice Award in the amount of \$177,100.00 plus prejudgment interest from June 30, 2011 at the California statutory rate." Docket No. 86. Defendants now ask the Court to amend the judgment pursuant to Rule 59(e) of the Federal Rules of Civil Procedure to reflect that starting date for the prejudgment interest calculation should be July 30, 2014 rather than June 30, 2011. *See* Docket No. 88 ("Motion"). Having reviewed the parties' briefs and relevant law, the Court finds that the date stated in its previous order and judgment is clearly erroneous and therefore GRANTS the Motion. *See Turner v. Burlington N. Santa Fe R. Co.*, 338 F.3d 1058, 1063 (9th Cir. 2003) (holding that a motion to alter or amend judgment under Rule 59(e) should be granted where "necessary to correct manifest errors of law or fact upon which the judgment is based"). The correct starting date for calculating prejudgment interest on an arbitration award is the date of the award itself. *See* Cal. Civ. Code section 3287(a). The DeMartinis have not pointed to any authority that would permit an award of prejudgment interest that predates the arbitration award and the Court finds none.

The motion hearing scheduled for **January 8, 2016** at 9:30 am is **vacated**. The Clerk is

1 instructed to enter an amended judgment in favor of the DeMartinis on the July 30, 2014
2 Malpractice Award in the amount of \$177,100.00 plus prejudgment interest from **July 30, 2014** at
3 the California statutory rate.

4 **IT IS SO ORDERED.**

5 Dated: December 22, 2015

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8 JOSEPH C. SPERO
9 Chief Magistrate Judge
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United States District Court
Northern District of California